

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LUIS ALBERTO RIOS,

Petitioner,

v.

No. 13-cv-0445 JCH/SMV

JAMES JANECKA and GARY KING,

Respondents.¹

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition [Doc. 9] ("PF&RD"), issued August 23, 2013. On reference by the undersigned, the Honorable Stephan M. Vidmar, United States Magistrate Judge, found that Petitioner had presented both exhausted and unexhausted claims in his Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2254 by a Person in State Custody [Doc. 1] ("Petition"). PF&RD [Doc. 19] at 1. Accordingly, Judge Vidmar recommended that the Court order Petitioner to withdraw his unexhausted claims or dismiss his Petition without prejudice. *Id.* at 8. No party has filed objections to the PF&RD, and the time for objecting has passed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Magistrate Judge's Proposed Findings and Recommended Disposition [Doc. 9] are **ADOPTED**.


¹ The Petition [Doc. 1] originally named Paddy Downey and Gary King as Respondents. By the Court's Order to Substitute Party . . . [Doc. 6] (filed May 28, 2013), Downey was substituted with James Janecka as Respondent.

IT IS FURTHER ORDERED that:

(1) Petitioner must file a **one-page certification** stating that he has elected to withdraw his unexhausted claims, **within 10 days** of the date of this order; and

(2) If Petitioner fails to file a certificate to withdraw the unexhausted claims within 10 days of the date of this order, he is put on notice that his Petition may be dismissed and that the Antiterrorism and Effective Death Penalty Act's, Pub. L. No. 104-132, § 101, 110 Stat. 1321 (codified at 28 U.S.C. § 2244(d)), statute of limitations applies to all claims brought in this action.

IT IS SO ORDERED.


JUDITH C. HERRERA
United States District Judge